



Court will analyze this motion under both sections.<sup>1</sup>

When evaluating a motion made pursuant to § 144, “[t]he test is whether, assuming the truth of the facts alleged, a reasonable person would conclude that a personal as distinguished from a judicial bias exists.” *Mims v. Shapp*, 541 F.2d 415, 417 (3d Cir. 1976). Thus, this Court is to determine the legal sufficiency of the allegations and nothing more. *Id.* Though Petitioner has failed to submit a certified or notarized affidavit, the sufficiency of his submission is substantively lacking. Aruanno simply suggests, that *if* this Court is biased, it should recuse itself. Courts have long held that a conclusory affidavit is insufficient for recusal. *Prall*, 2010 WL at \*3. Thus, a speculative affidavit, similarly lacking in factual support is likewise insufficient.

Accordingly, the Court will not recuse itself under § 455 because it is not convinced that its impartiality has been reasonably questioned. *U.S. v. Dalfonso*, 707 F.2d 757, 760 (3d Cir. 1983). Due to the paucity of factual allegations the Court is satisfied that a reasonable person would not be convinced of the Court’s alleged bias after reading Aruanno’s papers. Because Petitioner’s allegations are insufficient under either § 455 or § 144, Petitioner’s motion to recuse is denied.

Petitioner’s motion addresses alleged delays in both of his cases.<sup>2</sup> The Court notes that neither case has proceeded because the respective complaints have not been properly served.

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<sup>1</sup>This Court is entitled to rule on motions made pursuant to § 455. It is also entitled to rule on motions made pursuant to § 144 where the affidavit does not meet the “sufficiency test.” *Prall v. Burlington City Mun. Court*, Civ. No. 09-2615, 2010 WL 2719760, at \*3 n.1 (D.N.J. June 29, 2010).

<sup>2</sup>In his motion Petitioner also references *Aruanno v. Sgt. Allen*, Civ. No. 09-1250.

For these reasons,

**IT IS** on this 29<sup>th</sup> day of October, 2010,

**ORDERED** that Petitioner's motion for recusal (Docket Entry No. 19) is **DENIED**.

/s Stanley R. Chesler  
STANLEY R. CHESLER  
United States District Judge.